

EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN

YVONNE JAKUBOWSKI
Plaintiff,

HON. ROBERT HOLMES BELL
Case No. 1:11-cv-00597-RHB

v.

TRIANGLE COATINGS, INC., a
California corporation, and
MOSAIC MERCANTILE, INC.,
a Montana corporation, and
HOBBY LOBBY STORES, INC.,
an Oklahoma corporation, and
MICHAEL YABLON, individually,
Defendants.

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Joel W. Baar (P56796)
Stephanie K. Tuttle (P73191)
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Michael Yablon
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AFFIDAVIT OF MICHELLE McLEAN

I, Michelle McLean, being first duly sworn, depose and state as follows.

1. I am an attorney at Bolhouse, Baar, & Lefere PC.
2. I was the attorney of record for the Plaintiff, Yvonne Jakubowski in the above-captioned matter.

3. I have personal first-hand knowledge regarding the facts stated herein and if called to testify I can do so competently.

4. As part of my Rule 11 duties, I contacted Triangle Coatings, Inc.'s customer service department to verify that Triangle Coatings Inc. indeed was the manufacturer of the grout sealer which was used by the Plaintiff.

5. On June 2, 2011, I sent an email to Kate Walsh at Triangle Coatings' customer service department from my email address at the law firm. I did not hide the fact that I was a lawyer.

6. On June 3, 2011, I received an email from a customer service representative, John A. Cooper, of customer support/marketing at Triangle Coatings. Via email, he told me that Triangle did not manufacture the primer but did manufacture the sealer on behalf of Mosaic Mercantile. Mr. Cooper also sent to me a flyer which showed some of the products that Triangle manufactured for Mosaic Mercantile.

7. After determining with reasonable certainty that Triangle Coatings was the manufacturer of the Mosaic Mercantile sealer, I filed the Complaint on June 8, 2011 on behalf of the Plaintiff and named Triangle Coatings as a Defendant.

8. Mr. Ned B. Kisner was served a copy of the Summons and Complaint on June 27, 2011. An Answer was required to be filed on or before July 18, 2011. (**Docket #5**).

9. On July 25, 2011, the Court filed a Notice of Impending Default which stated that if by July 29, 2011, Plaintiff did not request a default be entered or if the Court was not advised that the Defendant had served a responsive pleading, a default would be entered against the Defendant pursuant to Fed. R. Civ. P. 55(a). (**Docket #7**).

10. On August 3, 2011, I received a phone call from Ned B. Kisner, the President of Triangle Coatings Inc. During this conversation, Mr. Kisner claimed that Triangle Coatings had not manufactured any products for Mosaic Mercantile for over 10 years.

11. I immediately advised Mr. Kisner that one of his customer service representatives confirmed to me in writing that Triangle indeed manufactured Mosaic's sealer. I then asked Mr. Kissner, either personally or with the help of his lawyer, to prove that Triangle Coatings was not the manufacturer.

12. On August 8, 2011, I forwarded the email from the customer service representative with the admission of being the manufacturer for Mosaic, to Mr. Kisner with the expectation that Mr. Kisner would respond and or defend in the lawsuit. See **Exhibit C**.

13. Mr. Kisner was aware of this lawsuit and indeed had been properly served. In fact, at the time that Mr. Kisner contacted me on August 8, 2011, Triangle was already in "default" for having failed to answer or otherwise defend the allegations contained in the Complaint.

14. I never assured Mr. Kisner, or any person associated with Triangle Coatings Inc., either expressly or impliedly, verbally or in writing, that this lawsuit would simply "go-away" or be dismissed based on Mr. Kisner's unverified claim that Triangle did not manufacture for Mosaic.

15. Had Mr. Kisner verified his claims that Triangle did not manufacture Mosaic's sealer, then I, as counsel for Plaintiff, would have recommended that Plaintiff simply dismiss Triangle as a defendant without any further litigation.

16. Mr. Kisner was aware that the reason his company was named in the lawsuit was because Triangle's own customer service representative admitted to me in writing that Triangle manufactured Mosaic's sealer.

17. I made it unequivocally clear to Mr. Kisner that unless he could prove that his company indeed did not manufacture the sealer for Mosaic, then Triangle was involved in the lawsuit for the long run.

18. Thereafter, Mr. Kisner never again contacted me. Going forward, I assumed that Mr. Kisner's failure to respond and or defend in the lawsuit was an admission of Triangle's wrongdoing.

19. At Plaintiff's Hearing on Damages on June 1, 2012, I candidly reported to this Court that the owner of Triangle Coatings had contacted me and claimed that Triangle did not manufacture for Mosaic. I also told this Court that I forwarded emails from Triangle's customer service department to the owner of Triangle which showed that Triangle admitted to me that Triangle indeed manufactured Mosaic's sealer. Last, I advised the Court that despite my request to the owner that he or his attorney get back with me to discuss the customer service emails, no one from Triangle ever contacted me again.

20. Further affiant sayeth not.

Dated: July 11, 2013



Michelle McLean

STATE OF MICHIGAN)
)ss
COUNTY OF KENT)

Acknowledged before me in Kent County, Michigan, on July 11, 2013, by Michelle M. McLean.

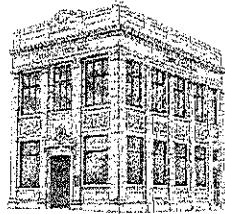


Rachel L. Kramer
Notary Public, State of Michigan, County of Kent
My Commission Expires: 7/27/2019

EXHIBIT A

Michelle McLean

From: Michelle McLean
Sent: Tuesday, June 25, 2013 4:55 PM
To: Stephanie Tuttle
Subject: FW: Jakubowski v Mosaic Mercantile

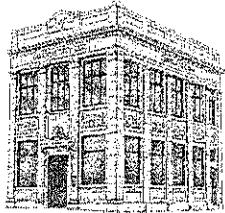


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Cellular (616) 706-1127
www.bolhouselaw.com

From: Michelle M. McLean
Sent: Monday, August 08, 2011 6:40 PM
To: 'Ned B. Kisner'
Subject: RE: Jakubowski v Mosaic Mercantile

Thanks for speaking with me today Ned. I will forward the emails shortly.



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michellem@bolhouselaw.com
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From: Ned B. Kisner [<mailto:nkisner@tricoat.com>]
Sent: Monday, August 08, 2011 4:19 PM
To: Michelle M. McLean
Subject: Jakubowski v Mosaic Mercantile

Dear Michelle,

Below, please find my contact information. You are to send me a copy of the email from my company, Triangle Coatings, wherein someone stated we manufacture for Mosaic Mercantile.

Although we originally manufacture for Mosaic Mercantile, we haven't done so for about 10 years.

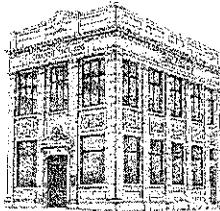
Please let me know what you need as confirmation from me to appropriately confirm this so we are no longer involved in the lawsuit. It is indeed a bazaar case.

Thank you.

Michelle McLean

From: Michelle M. McLean
Sent: Monday, August 08, 2011 6:40 PM
To: Ned B. Kisner (nkisner@tricoat.com)
Subject: FW: Mosaic Mercantile 1
Attachments: 20110602161156803.pdf

FYI



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From: Johnnie Cooper [<mailto:jcooper@tricoat.com>]
Sent: Thursday, June 02, 2011 7:16 PM
To: Michelle M. McLean
Subject: Mosaic Mercantile

Hello,

Thank you for your recent inquiry. We do not carry primer but we do carry the sealer. I have included a scanned copy of the different types of grout we carry. If you have any questions, please let me know.

Thanks,

Johnnie Cooper
Customer Support/Marketing
Triangle Coatings, Inc.
T +1 925 583 0886
F +1 925 583 0880
E + jcooper@tricoat.com

This message and any attachments are Confidential Information and are intended for the personal attention of the addressee(s). If you are not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this message in error, please notify the sender and delete/destroy the original message and any copies. Thank you.

 Think Green. Please don't print this email unless you really need to.

From: Michelle M. McLean [<mailto:MichelleM@bolhousetlaw.com>]
Sent: Thursday, June 02, 2011 9:18 AM

To: Kate Walsh

Subject: Mosaic Mercantile

Does Triangle manufacture Grout Sealer or Grout Primer for Mosaic Mercantile? I am looking for a grout sealer and a grout primer.

Thanks,

Michelle McLean

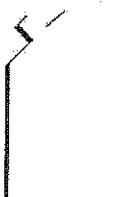
TRIANGLE Crafts

MOSAIC GROUT IN 12 BEAUTIFUL COLORS

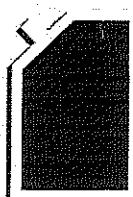
A premium quality, non-sanded grout designed specifically for mosaic projects with narrow grout lines. It's perfect for crafts using ceramic or glass tiles. The pre-tinted colors make it easy and hassle free to add a thin line of consistent color—something not possible with self-tint methods. The award-winning and unique pouch packaging makes it easy to use—just squeeze out the amount needed and recap.

- **Pegable**—for easy display and flexibility in placement
- **Pre-Tinted**—no waste, no hassle
- **Easy to Use**—no mixing, simply squeeze out the amount needed
- **Consistent Colors**—the same attractive color every time
- **Convenient**—reclosable 8 ounce size

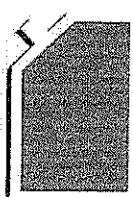
Available in 12 beautiful colors:



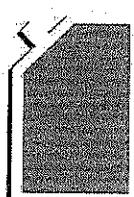
White



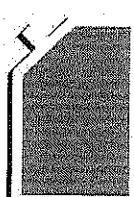
Black



Stone Gray



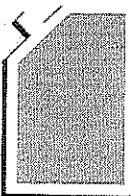
Sonoma Brown



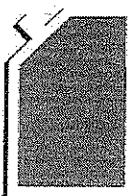
Deep Blue



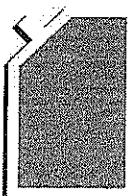
Sea Blue



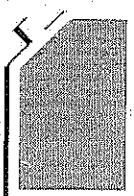
Flame Red



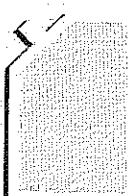
Terra Cotta



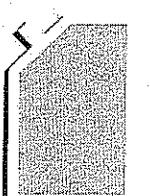
Moss Green



Grass Green



Sunflower Yellow



Canyon Cloud Purple